

**RHODE ISLAND DEPARTMENT OF LABOR & TRAINING
DIVISION OF PROFESSIONAL REGULATION
MECHANICAL BOARD**

1511 Pontiac Avenue, Bldg 70, 2nd Floor Conference Room

Cranston, RI 02920

Monday, June 24, 2013

9:00am

In attendance: Dennis Brennan

Timothy Byrne

Stanley Davies, Chair

Steven Gray

Bobby Joe Harris

Jack King

Quinlan T. Regan

Charles Wright

Robert Eva, Fred Foeri and Michael Januario were not in attendance.

Also in attendance were Nick Ranone, Chief Mechanical Investigator; Joseph Degnan, Assistant Director (10:05am exits); and Valentino Lombardi, Legal Counsel.

1. – Call to Order: Stanley Davies called the meeting to order at

9:04am.

2. – Minutes of June 5 2013 meeting: Motion was made by Tim Byrne to accept the minutes of the June 5, 2013 meeting, seconded by Charles Wright and passed unanimously by the Board.

3. – Conflict of Interest: Valentino Lombardi, Legal Counsel, is available to answer any questions.

4. – HEARINGS:

Mark V. Burns – Violation 4572: Mark Burns, respondent; and Nick Ranone, Investigator; are sworn in for testimony. Nick Ranone reads the violation into the record.

DATE OF VIOLATION: 3/15/13; Violation written: 3/22/2013; Violation 4572

NAME OF VIOLATOR: Mark V. Burns, 26 Valley St, Cumberland RI 02864

LOCATION OF VIOLATION: Newport Water Treatment Plant 100 Bliss Mine Rd., Newport, RI 02840

VIOLATION: On 3-15-2013, Mark V. Burns was witnessed rigging fiberglass tanks into the building at the above mentioned location.

Mr. Burns does not hold a pipefitters license in the State of RI to do this type of work.

This is one (1) violation of RIGL 28-27-5.1 Practices for which journeyperson or apprentice license required.

The fine is \$500.00.

Following the reading of Violation 4572, Tim Byrne inquires if Violation 4572, 4573 and 4574 are the exact same violation of the same piece of equipment. Nick Ranone responds in the affirmative. In the interest of time, Mr. Byrne asks the Chairman if all three violations could be heard at the same time or would they need to be heard individually as they are the same. Legal Counsel, Valentino Lombardi, advises that it is not a problem consolidating. Tim Byrne made a motion to consolidate Violation 4572, Mark V. Burns; Violation 4573, Costanzo G. Caparrelli; and Violation 4574, Robert A. Angell. The motion is seconded by Charles Wright and passed unanimously by the Board.

Costanzo G. Caparrelli is not present.

Robert A. Angell is present and is sworn in for testimony.

Robert A. Angell – Violation 4574: Nick Ranone reads the violation into the record.

DATE WRITTEN: 03/22/2013; Violation # 4574

NAME OF VIOLATOR: Robert A. Angell, 107 Farnum Pk Smithfield, RI 02917

LOCATION OF VIOLATION: Newport Water Treatment Plant 100 Bliss Mine Rd. Newport, RI 02840

VIOLATION: On 3-15-2013, Robert A. Angell was witnessed rigging fiberglass tanks into the building at the above mentioned location.

Mr. Angell does not hold a pipefitters license in the State of RI to do this type of work.

This is one (1) violation of RIGL 28-27-5.1 Practices for which journeyman or apprentice license required.

Fine is \$500.00.

Costanzo G. Caparrelli – Violation 4573: Mr. Costanzo is not present.

Violation 4573 reads:

DATE: 3/22/2013; Violation # 4573

NAME OF VIOLATOR: Costanzo G. Caparrelli, 57 Taylor Rd Johnston RI 02919

LOCATION OF VIOLATION: Newport Water Treatment Plant 100 Bliss Mine Rd. Newport, RI 02840

VIOLATION: On 3-15-2013, Costanzo G. Caparrelli was witnessed rigging fiberglass tanks into the building at the above mentioned location.

Mr. Caparrelli does not hold a pipefitters license in the State of RI to do this type of work.

This is one (1) violation of RIGL 28-27-5.1 Practices for which journey person or apprentice license required.

Nick Ranone provides testimony. The Board questions Mr. Ranone.

Valentino Lombardi addressed the Board that he has been informed by Michael Sabitoni, Business Manager for RI Laborer's District Council and Construction and General Laborer's Local Union 271 and President of Rhode Island Building Trades, would like represent the respondents and asks the Mr. Sabitoni be able to present an argument on their behalf. Mr. Sabitoni addressed the Board. Mr. Burns, Mr. Angell and Mr. Caparrelli were all referred to the job site from Local 271 to CH Nickerson for the project.

Mr. Burns addressed the Board. The Board questions Mr. Burns.

There is a discussion of RIGL 28-27-28.

The Board continues presenting questions to respondents as well as Mr. Ranone.

The Board inquires of Mr. Sabitoni if union is aware that licenses are needed to perform this work and does Local 271 have any proper licensed individuals to do the rigging with a proper pipefitter license. Mr. Sabitoni addressed the Board and inquired as to when “installation” begins and requests clarification.

Charles Wright addressed Mr. Sabitoni referring to the definition of “installation” in the Rules and Regulations. Mr. Sabitoni addressed the Board. Discussion continues regarding installation and licenses.

Mr. Sabitoni makes a closing statement.

Mr. Angell had no comments.

The Board had additional questions for Mr. Ranone.

Regarding Violations 4572, Mark V. Burns; Violation 4573, Costanzo G. Caparrelli and Violation 4574, Robert A. Angell, Tim Byrne made a motion based on testimony provided today and ensuing discussion that a violation of RIGL 28-27-5.1, Practices for which a journeyman or

apprentice license required, did in fact occur. The motion was seconded by Charles Wright and Bobby Joe Harris. The motion passed unanimously.

Regarding the fine for Violations 4572, Mark V. Burns; Violation 4573, Costanzo G. Caparrelli and Violation 4574, Robert A. Angell, Tim Byrne made a motion that the fines of \$500.00 for each violation be suspended for one (1) year pending no further violations. The motion was seconded by Charles Wright and Dennis Brennan.

Tim Byrne requests a discussion. Mr. Byrne addressed the Board that Mr. Burns, Mr. Caparrelli and Mr. Angell created the violation. They were instructed to perform the work with fear of losing their jobs if they did not. Mr. Byrne states that this part of the reason why he made the motion to suspend the fine as it is not right to be put in that situation. Discussion continued. Mr. Byrne adds that any company doing mechanical work should have to know the laws of this state.

A vote was taken and the motion passed unanimously by the Board.

The recommendation will be forwarded to the Director's office.

C.H. Nickerson & Co., Inc. – Nickerson General Contractors – Violation 4575: Jon Miller, President of CH Nickerson, is sworn in for testimony. Having been previously sworn, Nick Ranone, Investigator,

reads the violation into the record.

DATE VIOLATION WRITTEN: 3/22/2013; Violation # 4575

NAME OF VIOLATOR: C.H. Nickerson & Co., Inc., Nickerson General Contractors; PO Box 808. Torrington, CT 063790

LOCATION OF VIOLATION: Newport Water Treatment Plant 100 Bliss Mine Rd. Newport, RI 02840

VIOLATION: On 3-15-2013, Nickerson General Contractors had three (3) of their employees, Robert A. Angell, Costanzo G. Caparrelli and Mark V. Burns, rigging fiberglass tanks into the building at the above mentioned location.

Mr. Angell, Mr. Caparrelli and Mr. Burns do not hold pipefitters licenses in the State of RI to do this type of work. This is three (3) willful violations of RIGL 28-27-5.1 Practices for which journey person or apprentice license required.

On 3-13-2013 John Mack, Project Superintendent for Nickerson General Contractors, was issued a verbal warning that rigging tanks would be considered installing and licensed pipefitters would be required.

Three violations at \$950.00 each for a total of \$2,850.00.

Nick Ranone provides testimony. The Board questions Mr. Ranone.

Tim Byrne addressed the Board. The Board continues questioning Mr. Ranone.

Jon Miller, President of C.H. Nickerson, provides testimony. There is discussion.

Michael Sabitoni addressed the Board.

Regarding Violation 4575, Charles Wright made a motion that the violation, as it stands, did occur; seconded by Tim Byrne and passed unanimously by the Board.

Regarding the fine for Violation 4575, Steven Gray made a motion to suspend the fine for one year pending no further violation; seconded by Dennis Brennan. There was no opposition, motion carried.

The recommendation will be forwarded to the Director's office.

End of hearings.

**** OLD BUSINESS: Regarding the meeting of June 5, 2013 and Violation 4462, Michael Jean, MJ Heating & Air Conditioning and 240 Bald Hill Road, Stan Davies addressed the Board that another company did some work and Mr. Ranone will look into.**

Charles Wright noted that in the minutes of the June 5, 2013 meeting the hearing for Violation 4462, Michael Jean – MJ Heating & Air Conditioning, was tabled until the next meeting but was not on today's agenda. Due to the July 3, 2013 meeting being rescheduled to June 24, 2013, there was not sufficient time to notify the respondent to appear. The hearing for Violation 4462 is currently on the agenda for the August 7, 2013 meeting.

5. – ADJOURNMENT: A motion to adjourn was made by Bobby Joe Harris; seconded by Charles Wright and passed unanimously by the Board.

The meeting adjourned at 10:12am.